

1 Richard E. Morton (Bar No. 54188)
David W. Evans (Bar No. 79466)
2 Nairi Chakalian (Bar No. 212976)
HAIGHT BROWN & BONESTEEL LLP
3 71 Stevenson Street, 20th Floor
San Francisco, California 94105-2981
4 Telephone: 415.546.7500
Facsimile: 415.546.7505

5 Attorneys for Defendant
6 FRANKLIN ARDEN, LLC. dba GRAVENSTEIN
BUSINESS CENTER
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 CRAIG YATES, an individual; and
12 DISABILITY RIGHTS ENFORCEMENT,
EDUCATION, SERVICES; HELPING
13 YOU HELP OTHERS, a California public
benefit corporation,

14 Plaintiffs,

15 vs.

16 FRANKLIN ARDEN, LLC. dba
GRAVENSTEIN BUSINESS CENTER,

17 Defendant.
18

Case No. CV 08 3004 EDL

ANSWER TO COMPLAINT

Complaint Filed: December 28, 2007

19 **COMES NOW**, Defendant FRANKLIN ARDEN, LLC. dba GRAVENSTEIN
20 BUSINESS CENTER, and in responding to plaintiffs' complaint herein, admits, denies
21 and alleges as follows:

22 1. In response to Paragraph 1, this responding Defendant lacks sufficient
23 information and belief to either admit or deny the allegations contained within this
24 paragraph, and based upon said lack of information and belief, denies the allegations
25 contained therein.

26 2. In response to Paragraph 2, this responding Defendant denies the allegations
27 contained within this paragraph.

28 3. In response to Paragraph 3, this responding Defendant admits the allegations

1 contained within this paragraph.

2 4. In response to Paragraph 4, this responding Defendant admits the allegations
3 contained within this paragraph.

4 5. In response to Paragraph 5, this responding Defendant lacks sufficient
5 information and belief to either admit or deny the allegations contained within this
6 paragraph, and based upon said lack of information and belief, denies the allegations
7 contained therein.

8 6. In response to Paragraph 6, this responding Defendant lacks sufficient
9 information and belief to either admit or deny the allegations contained within this
10 paragraph, and based upon said lack of information and belief, denies the allegations
11 contained therein.

12 7. In response to Paragraph 7, this responding Defendant lacks sufficient
13 information and belief to either admit or deny the allegations contained within this
14 paragraph, and based upon said lack of information and belief, denies the allegations
15 contained therein.

16 8. In response to Paragraph 8, this responding Defendant admits only that it has
17 a 90 percent interest in said property.

18 9. In response to Paragraph 9, this responding Defendant admits only that it has
19 a 90 percent interest in said property. In all other respects, this responding Defendant
20 admits the allegations contained within this paragraph.

21 10. In response to Paragraph 10, this responding Defendant lacks sufficient
22 information and belief to either admit or deny the allegations contained within this
23 paragraph, and based upon said lack of information and belief, denies the allegations
24 contained therein.

25 11. In response to Paragraph 11, this responding Defendant admits that Good To
26 Go Military Surplus is a tenant at 7950 Redwood Drive #2, Cotati, California and admits
27 those allegations contained within lines 12 through 19 but denies that the following
28 companies are currently located at the Gravenstein Business Center: Asiana Video,

1 Defenite Impressions, Fairfax French Cleaners, Montana Hawk Shooting Range, Scott,
2 McDougall & Associates and Studio FX. This responding Defendant denies the
3 allegations contained at line 19 beginning with the word "on" through the balance of that
4 paragraph.

5 12. In response to Paragraph 12, this responding Defendant lacks sufficient
6 information and belief to either admit or deny the allegations contained within this
7 paragraph, and based upon said lack of information and belief, denies the allegations
8 contained therein.

9 13. In response to Paragraph 13, this responding Defendant denies the
10 allegations contained within this paragraph.

11 14. In response to Paragraph 14, this responding Defendant lacks sufficient
12 information and belief to either admit or deny the allegations contained within this
13 paragraph, and based upon said lack of information and belief, denies the allegations
14 contained therein.

15 15. In response to Paragraph 15, this responding Defendant lacks sufficient
16 information and belief to either admit or deny the allegations contained within this
17 paragraph, and based upon said lack of information and belief, denies the allegations
18 contained therein.

19 16. In response to Paragraph 16, this responding Defendant lacks sufficient
20 information and belief to either admit or deny the allegations contained within this
21 paragraph, and based upon said lack of information and belief, denies the allegations
22 contained therein.

23 17. In response to Paragraph 17, this responding Defendant lacks sufficient
24 information and belief to either admit or deny the allegations contained within this
25 paragraph, and based upon said lack of information and belief, denies the allegations
26 contained therein.

27 18. In response to Paragraph 18, this responding Defendant lacks sufficient
28 information and belief to either admit or deny the allegations contained within this

1 paragraph, and based upon said lack of information and belief, denies the allegations
2 contained therein.

3 19. In response to Paragraph 19, this responding Defendant lacks sufficient
4 information and belief to either admit or deny the allegations contained within this
5 paragraph, and based upon said lack of information and belief, denies the allegations
6 contained therein.

7 20. In response to Paragraph 20, this responding Defendant lacks sufficient
8 information and belief to either admit or deny the allegations contained within this
9 paragraph, and based upon said lack of information and belief, denies the allegations
10 contained therein.

11 21. In response to Paragraph 21, this responding Defendant lacks sufficient
12 information and belief to either admit or deny the allegations contained within this
13 paragraph, and based upon said lack of information and belief, denies the allegations
14 contained therein.

15 22. In response to Paragraph 22, this responding Defendant lacks sufficient
16 information and belief to either admit or deny the allegations contained within this
17 paragraph, and based upon said lack of information and belief, denies the allegations
18 contained therein.

19 23. In response to Paragraph 23, this responding Defendant lacks sufficient
20 information and belief to either admit or deny the allegations contained within this
21 paragraph, and based upon said lack of information and belief, denies the allegations
22 contained therein.

23 24. In response to Paragraph 24, this responding Defendant lacks sufficient
24 information and belief to either admit or deny the allegations contained within this
25 paragraph, and based upon said lack of information and belief, denies the allegations
26 contained therein.

27 25. In response to Paragraph 25, this responding Defendant lacks sufficient
28 information and belief to either admit or deny the allegations contained within this

1 paragraph, and based upon said lack of information and belief, denies the allegations
2 contained therein.

3 26. In response to Paragraph 26, this responding Defendant lacks sufficient
4 information and belief to either admit or deny the allegations contained within this
5 paragraph, and based upon said lack of information and belief, denies the allegations
6 contained therein.

7 27. In response to Paragraph 27, this responding Defendant denies the
8 allegations contained within this paragraph.

9 28. In response to Paragraph 28, this responding Defendant lacks sufficient
10 information and belief to either admit or deny the allegations contained within this
11 paragraph, and based upon said lack of information and belief, denies the allegations
12 contained therein.

13 29. In response to Paragraph 29, this responding Defendant denies the
14 allegations contained within this paragraph.

15 30. In response to Paragraph 30, this responding Defendant denies the
16 allegations contained within this paragraph.

17 31. In response to Paragraph 31, this responding Defendant denies the
18 allegations contained within this paragraph.

19 32. In response to Paragraph 32, this responding Defendant denies the
20 allegations contained within this paragraph.

21 33. In response to Paragraph 33, this responding Defendant denies the
22 allegations contained within this paragraph.

23 34. In response to Paragraph 34, this responding Defendant denies the
24 allegations contained within this paragraph.

25 35. In response to Paragraph 35, this responding Defendant denies the
26 allegations contained within this paragraph.

27 36. In response to Paragraph 36, this responding Defendant lacks sufficient
28 information and belief to either admit or deny the allegations contained within this

1 paragraph, and based upon said lack of information and belief, denies the allegations
2 contained therein.

3 37. In response to Paragraph 37, this responding Defendant denies the
4 allegations contained within this paragraph.

5 38. In response to Paragraph 38, this responding Defendant denies the
6 allegations contained within this paragraph.

7 39. In response to Paragraph 39, this responding Defendant denies the
8 allegations contained within this paragraph.

9 40. In response to Paragraph 40, this responding Defendant denies the
10 allegations contained within this paragraph.

11 41. In response to Paragraph 41, this responding Defendant denies the
12 allegations contained within this paragraph.

13 42. In response to Paragraph 42, this responding Defendant denies the
14 allegations contained within this paragraph.

15 43. In response to Paragraph 43, this responding Defendant lacks sufficient
16 information and belief to either admit or deny the allegations contained within this
17 paragraph, and based upon said lack of information and belief, denies the allegations
18 contained therein.

19 44. In response to Paragraph 44, this responding Defendant repleads and
20 incorporates by reference, as if fully set forth again herein, the responses contained in
21 Paragraphs 1 through 43 of this answer.

22 45. In response to Paragraph 45, this responding Defendant admits the
23 allegations contained within this paragraph.

24 46. In response to Paragraph 46, this responding Defendant admits the
25 allegations contained within this paragraph.

26 47. In response to Paragraph 47, this responding Defendant admits the
27 allegations contained within this paragraph.

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1 48. In response to Paragraph 48, this responding Defendant admits the
2 allegations contained within this paragraph.

3 49. In response to Paragraph 49, this responding Defendant admits that there are
4 specific prohibitions against discrimination set forth in § 302(b)(2)(a) and 42 U.S.C.
5 § 12182(b)(2)(a). In all other respects, this responding Defendant denies allegations
6 contained within said paragraph.

7 50. In response to Paragraph 50, this responding Defendant denies the
8 allegations contained within this paragraph.

9 51. In response to Paragraph 51, this responding Defendant denies the
10 allegations contained within this paragraph.

11 52. In response to Paragraph 52, this responding Defendant denies the
12 allegations contained within this paragraph.

13 53. In response to Paragraph 53, this responding Defendant denies the
14 allegations contained within this paragraph.

15 54. In response to Paragraph 54, this responding Defendant denies the
16 allegations contained within this paragraph.

17 55. In response to Paragraph 55, this responding Defendant denies the
18 allegations contained within this paragraph.

19 56. In response to Paragraph 56, this responding Defendant repleads and
20 incorporates by reference, as if fully set forth again herein, the responses contained in
21 Paragraphs 1 through 55 of this answer.

22 57. In response to Paragraph 57, this responding Defendant admits the
23 allegations contained within this paragraph.

24 58. In response to Paragraph 58, this responding Defendant admits the
25 allegations contained within this paragraph.

26 59. In response to Paragraph 59, this responding Defendant admits the
27 allegations contained within this paragraph.

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1 60. In response to Paragraph 60, this responding Defendant denies the
2 allegations contained within this paragraph.

3 61. In response to Paragraph 61, this responding Defendant denies the
4 allegations contained within this paragraph.

5 62. In response to Paragraph 62, this responding Defendant denies the
6 allegations contained within this paragraph.

7 63. In response to Paragraph 63, this responding Defendant denies the
8 allegations contained within this paragraph.

9 64. In response to Paragraph 64, this responding Defendant denies the
10 allegations contained within this paragraph.

11 65. In response to Paragraph 65, this responding Defendant denies the
12 allegations contained within this paragraph.

13 66. In response to Paragraph 66, this responding Defendant repleads and
14 incorporates by reference, as if fully set forth again herein, the responses contained in
15 Paragraphs 1 through 65 of this answer.

16 67. In response to Paragraph 67, this responding Defendant admits the
17 allegations contained within this paragraph.

18 68. In response to Paragraph 68, this responding Defendant denies the
19 allegations contained within this paragraph.

20 69. In response to Paragraph 69, this responding Defendant denies the
21 allegations contained within this paragraph.

22 70. In response to Paragraph 70, this responding Defendant lacks sufficient
23 information and belief to either admit or deny the allegations contained within this
24 paragraph, and based upon said lack of information and belief, denies the allegations
25 contained therein.

26 71. In response to Paragraph 71, this responding Defendant denies the
27 allegations contained within this paragraph.

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1 72. In response to Paragraph 72, this responding Defendant denies the
2 allegations contained within this paragraph.

3 73. In response to Paragraph 73, this responding Defendant lacks sufficient
4 information and belief to either admit or deny the allegations contained within this
5 paragraph, and based upon said lack of information and belief, denies the allegations
6 contained therein.

7 74. In response to Paragraph 74, this responding Defendant repleads and
8 incorporates by reference, as if fully set forth again herein, the responses contained in
9 Paragraphs 1 through 73 of this answer.

10 75. In response to Paragraph 75, this responding Defendant lacks sufficient
11 information and belief to either admit or deny the allegations contained within lines 12
12 through 15 of that paragraph and, based upon such lack of information and belief, denies
13 those allegations. This responding Defendant admits that § 51 of the Civil Code provides
14 as alleged in said paragraph. This responding party denies the allegations contained within
15 said paragraph commencing at line 7 through line 11 on page 23.

16 76. In responding to Paragraph 76, this responding Defendant denies the
17 allegations contained within this paragraph.

18 77. In response to Paragraph 77, this responding Defendant denies the
19 allegations contained within this paragraph.

20 78. In response to Paragraph 78, this responding Defendant denies the
21 allegations contained within this paragraph.

22 79. In response to Paragraph 79, this responding Defendant denies the
23 allegations contained within this paragraph.

24 **AFFIRMATIVE DEFENSES**

25 **FIRST AFFIRMATIVE DEFENSE**

26 80. Plaintiffs' Complaint fails to state a claim against Defendant upon which
27 relief can be granted.
28

SECOND AFFIRMATIVE DEFENSE

81. The Complaint on file herein, and each purported claim for relief stated therein, is barred by the applicable statutes of limitation of the State of California, including but not limited to California *Code of Civil Procedure* Sections 338 and 340, and California Business and Professions Code Section 17208.

THIRD AFFIRMATIVE DEFENSE

82. Plaintiffs have failed to mitigate their damages and injuries, if any, and such failure to mitigate their proximately caused the alleged damages and injuries, if any.

FOURTH AFFIRMATIVE DEFENSE

83. Plaintiffs, in connection with any and all of the transactions or allegations which are the subject of their Complaint on file herein, have not suffered and will not suffer any damages by reason of the alleged acts or omissions of this answering Defendant, and therefore Plaintiffs have no valid claims against this answering Defendant.

FIFTH AFFIRMATIVE DEFENSE

84. All events, happenings, injuries, and damages referred to in Plaintiffs' Complaint on file herein, were proximately caused by the negligence and/or fault of plaintiffs and/or other firms, persons, corporations, or entities other than this answering Defendant, or over whom this answering Defendant exercised no jurisdiction or control, and for whose conduct this answering Defendant are not responsible or liable; therefore, if there is found to be any fault on the part of this answering Defendant which in any manner or degree contributed to Plaintiffs' alleged injuries and damages, if any, a finding should be made apportioning and affixing the comparative fault of any and all such persons or parties, whether named in this action or otherwise.

SIXTH AFFIRMATIVE DEFENSE

85. The claims for relief alleged in plaintiffs' Complaint on file herein are barred by reason of the fact that Plaintiffs, upon being fully informed of the acts and events of which they now complain, ratified and affirmed all conduct with respect to those acts and events, and therefore, Plaintiffs have waived all such claims and are estopped from

1 asserting the same against this answering Defendant.

2 **SEVENTH AFFIRMATIVE DEFENSE**

3 86. Plaintiffs are barred from recovery herein by reason of the fact that Plaintiffs
4 voluntarily and knowingly entered into and engaged in the transactions and conduct
5 alleged in the Complaint on file herein and voluntarily and knowingly assumed all risk
6 relating to said transactions and conduct at the times and places mentioned in the
7 Complaint on file herein and prior thereto.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9 87. Defendant alleges, upon information and belief, that any act or omission on
10 their part made the basis of any purported claim, was excused as it would have
11 fundamentally altered the nature of the services offered at 7950 Redwood Drive, Cotati,
12 California.

13 **NINTH AFFIRMATIVE DEFENSE**

14 88. Defendant alleges, upon information and belief, that any act or omission on
15 their part made the basis of any purported claim, was excused as the removal of the
16 barriers described herein, if any, was not readily achievable.

17 **TENTH AFFIRMATIVE DEFENSE**

18 89. Defendant alleges, upon information and belief, that any act or omission on
19 their part made a basis of any purported claim, was excused as a result of structural
20 impracticability.

21 **ELEVENTH AFFIRMATIVE DEFENSE**

22 90. Defendant alleges, on information and belief, that some or all of Plaintiffs'
23 claims may be barred, in whole or in part, by the doctrines of *laches*, waiver, estoppel,
24 unclean hands, or other equitable doctrines.

25 **TWELFTH AFFIRMATIVE DEFENSE**

26 91. Plaintiffs are barred from recovery by reason that, at all times indicated in
27 the Complaint on file herein, this answering Defendant provided reasonable
28 accommodations to handicapped individuals and exercised due diligence in their acts and

1 activities.

2 **THIRTEENTH AFFIRMATIVE DEFENSE**

3 92. Defendant alleges, upon information and belief, that given the work
4 requested by Plaintiffs, Defendant's conduct was excused as a result of the undue burden
5 of constructing the requested work at 7950 Redwood Drive, Cotati, California.

6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 93. Defendant alleges, upon information and belief, that the Complaint on file
8 herein is improperly pled, in that it is more properly brought as a class action lawsuit, not
9 as an individual action.

10 **FIFTEENTH AFFIRMATIVE DEFENSE**

11 94. Defendant alleges, upon information and belief, that Plaintiffs are not the
12 proper representatives to represent the interests of the general public or those of the
13 disabled public.

14 **SIXTEENTH AFFIRMATIVE DEFENSE**

15 95. Plaintiffs are barred from recovery by reason of the fact that they improperly
16 seek monetary damages and are seeking fluid fund recovery in violation of the law.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 96. Plaintiffs are barred from recovery of attorneys' fees as they are not a proper
19 form of relief in this action as Plaintiffs are not acting in the interests of, or on behalf of,
20 any public interest group.

21 **WHEREFORE**, Defendant requests that the Court enter a judgment:

- 22 a) Dismissing Plaintiffs' Complaint against Defendant with prejudice;
23 b) Declaring that Defendant has no obligation to perform additional work at
24 7950 Redwood Drive, Cotati, California.;

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1 c) Awarding Defendant his attorneys' fees, costs and disbursements; and
2 awarding such other and further relief to Defendant as the Court deems just,
3 equitable and proper.

4 Dated: August 4, 2008

HAIGHT BROWN & BONESTEEL LLP

5
6 By: Nairi Chakalian
7 Nairi Chakalian
8 Attorneys for Defendant
9 FRANKLIN ARDEN, LLC. dba
GRAVENSTEIN BUSINESS CENTER

10 **DEMAND FOR JURY TRIAL**

11 Defendant Franklin Arden, LLC. dba Gravenstein Business Center demands trial by
12 jury.

13 Dated: August 4, 2008

HAIGHT BROWN & BONESTEEL LLP

14
15 By: Nairi Chakalian
16 Nairi Chakalian
17 Attorneys for Defendant
18 FRANKLIN ARDEN, LLC. dba
19 GRAVENSTEIN BUSINESS CENTER
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